

PLD-C-001

1. **Plaintiff* (name or names):** AMERICAN EXPRESS NATIONAL BANK alleges causes of action against **defendant* (name or names)** JENS GRAU and DOES 1-10, inclusive

2. This pleading, including attachments and exhibits, consists of the following number of pages: 3

3. a. Each plaintiff named above is a competent adult

☒ **except plaintiff (name):** AMERICAN EXPRESS NATIONAL BANK

(1) ☐ a corporation qualified to do business in California

(2) ☐ an unincorporated entity (describe):

(3) ☒ other (specify): A national bank organized under the laws of the United States of America with its offices located at 115 W. Towne Ridge Parkway, Sandy, Utah 84070

b. ☐ Plaintiff (name):

a. ☐ has complied with the fictitious business name laws and is doing business under the fictitious name (specify):

b. ☐ has complied with all licensing requirements as a licensed (specify):

c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.

4. a. Each defendant named above is a natural person

☐ **except defendant (name):**

(1) ☐ a business organization, form unknown

(2) ☐ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

☐ **except defendant (name):**

(1) ☐ a business organization, form unknown

(2) ☐ a corporation

(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):

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4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

- (1) ☒ Doe defendants (specify Doe numbers): 1-5 were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) ☒ Doe defendants (specify Doe numbers): 6-10 are persons whose capacities are unknown to plaintiff.

c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):5. ☐ Plaintiff is required to comply with a claims statute, and

- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify):

6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

- a. ☐ a defendant entered into the contract here.
- b. ☐ a defendant lived here when the contract was entered into.
- c. ☒ a defendant lives here now.
- d. ☐ the contract was to be performed here.
- e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. ☐ real property that is the subject of this action is located here.
- g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- ☐ Breach of Contract
- ☒ Common Counts
- ☐ Other (specify):

9. Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. ☒ damages of: \$32,999.98
- b. ☐ interest on the damages
- (1) ☐ according to proof
- (2) ☐ at the rate of (specify): percent per year from (date):
- c. ☐ attorney's fees
- (1) ☐ of: \$
- (2) ☐ according to proof.
- d. ☐ other (specify):

11. ☐ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: September 25, 2020

Scott D. Dyle, Esq./SBN #300917

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

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CASE NUMBER:

FIRST CAUSE OF ACTION—Common Counts

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): AMERICAN EXPRESS NATIONAL BANK¹

alleges that defendant (name): JENS GRAU and DOES 1-10, inclusive

became indebted to ☒ plaintiff ☐ other (name):

- a. ☒ within the last four years
- (1) ☒ on an open book account for money due.
- (2) ☒ because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.
- b. ☒ within the last ☐ two years ☒ four years
- (1) ☐ for money had and received by defendant for the use and benefit of plaintiff.
- (2) ☐ for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff.
- ☐ the sum of \$
- ☐ the reasonable value.
- (3) ☐ for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff
- ☐ the sum of \$
- ☐ the reasonable value.
- (4) ☒ for money lent by plaintiff to defendant at defendant's request.
- (5) ☒ for money paid, laid out, and expended to or for defendant at defendant's special instance and request.
- (6) ☒ other (specify): For credit extended by Plaintiff to Defendant for purchases and/or cash advances by Defendant and/or persons acting with Defendant's permission on the American Express credit card account XXXX-XXXXXX-X9007. Plaintiff has performed all conditions precedent to bringing this action or Defendant has waived them.

¹ On April 1, 2018, American Express Centurion Bank changed its name to American Express National Bank. See <https://www.occ.treas.gov/topics/licensing/interpretations-and-actions/2018/interpretations-and-actions-jan-2018.html>; See also 12 U.S.C. § 35; 12 C.F.R. § 5.24.

CC-2. \$, which is the reasonable value, is due and unpaid despite plaintiff's demand,

plus prejudgment interest ☐ according to proof ☐ at the rate of

percent per year

from (date):

CC-3. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☐ according to proof.CC-4. ☒ Other: \$32,999.98, which is the current outstanding balance owed by Defendant to Plaintiff.

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